IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

Crl.MC.No. 1064 of 2007()

ST.193/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, PALAKKAD

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PETITIONER/ACCUSED:

ARAVINDHAKSHAN, C/O. K.K. SHANLY
PANDARATHIL SHOPPING COMPLEX
POOTOLE, THRISSUR.

BY ADV. SRI.G.SREEKUMAR (CHELUR)
SRI.K.RAVI (PARIYARATH)

RESPONDENT/STATE:

STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1064 of 2007

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Dated this the 30th day of March, 2007

O R D E R

The petitioner faces allegations under Section 138 of the N.I. Act. Cognizance was taken by the learned Magistrate. The petitioner did not appear before the learned Magistrate. The learned Magistrate issued non-bailable warrant to procure his presence. According to the petitioner he had gone abroad and in these circumstances he could not appear before the learned Magistrate. He is willing to surrender before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail on the date of surrender itself.

2. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate

would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

4. Hand over copy of the order.

(R. BASANT)
Judge

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